

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

-
W.P.No.5308 of 2007

Date: 10-05-2007

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Between:

Mir Obaid Ali Gibran

Petitioner

And

The Passport Officer,
Regional Passport Office, Hyderabad.

Respondent

THE HONOURABLE SRI JUSTICE NOOTY RAMAMOHANA RAO

-
W.P.No.5308 of 2007

ORDER:

1. This writ petition has been instituted by one Mir Obaid Ali Gibran, an Indian citizen who is presently residing at Dubai. He has obtained Indian Passport bearing No.Z 1312143 issued by the Indian Embassy at Dubai on 4th July,2001. The said Passport is valid up to 3-7-2011. In the said Passport, the entry of the date of birth of the writ petitioner is wrongly mentioned as 6-10-1986 instead of 6-10-1987. Hence, the writ petitioner filed an application seeking correction of this entry in his Passport. Since the said entry has not been corrected so far, he has instituted this writ petition seeking a writ of Mandamus to direct the respondent to consider his application for correction of date of birth without insisting for a declaratory order from the civil court.

2. The learned Assistant Solicitor General who has been requested to take notice on behalf of the respondent and to assist the court had pointed out two aspects. 1) In all these kind of cases, the Regional Passport Officers are instructed by the Ministry of External Affairs, Government of India not to contest them as such corrections solicited in the Indian Passports are insignificant corrections not requiring any contest by the Union of India. The second aspect is that in fact, the Ministry of External Affairs in their circular dated 18-4-2001 has given detailed instructions in the matter as to how the claims relating to the correction of the entries of date of birth be dealt with. The following three clauses have been spelt out therein: They are:

“ i)Where an applicant is seeking rectification/Correction of a mistake in the entry of date of birth/place of birth in the passport, PIA (Passport

Issuing Authority) may after verifying/satisfying himself, affect the correction treating the same as a technical correction. There is no need for a declaratory order in such cases.

ii)Where a competent authority issuing a birth certificate or an educational board registering a date of birth along with place of birth as valid were to issue any correction or amendment, PIA may effect the necessary amendment in the passport without insisting on a Court Order. As per the provisions of Section 21 of the General Clauses Act,1997, a competent authority issuing a certificate could also make necessary amendments to the same.

lii)Where the initial entry has been made on the basis of a supportive document issued by one competent authority and the application subsequently requests for a change on the basis of a certificate issued by another competent authority i.e. municipal authorities resulting in conflicting sources of valid proof, the PIA should direct the applicant to obtain a civil order from a competent Court of jurisdiction, certifying the valid date of birth/place of birth.”

3. A perusal of the above mentioned guidelines contained in circular dated 18th April,2001 of Ministry of External Affairs, Government of India, makes the position amply clear that where an applicant is seeking any rectification or correction of a mistake in the entry of the date of birth or place of birth in the passport, the Passport Issuing Authority may after verifying and satisfying himself carry out or effect the necessary correction treating the same as a technical error. In such type of cases there is no necessity to insist upon production of any declaratory order from any competent civil court. However, where the initial entry has been made on the basis of supportive document issued by any of the competent authorities, any subsequent request for a change on the basis of a certificate issued by any other competent authority such as Municipal Authorities, the Passport Issuing Authority should direct the applicant to obtain an order from a competent civil court having jurisdiction in the matter certifying

the valid date of birth or place of birth.

4. In the instant case, the mother of the writ petitioner had been issued a Passport at Hyderabad on 21-9-1987. Initially, it is in that passport, an entry has been made on 17-11-1987 about the date of birth of the writ petitioner. It is obvious that such an entry has been made because he was an infant at that stage. While making the said entry, the date of birth of the writ petitioner has been erroneously entered as 6-10-1986 instead of 6-10-1987. Based upon this entry in the Passport of the mother of the petitioner, while issuing a Passport later on to the petitioner, the wrong entry was carried over. It is thus clear that if the writ petitioner is not an infant by 17-11-1987 and if he were to be a one year old person, a separate and independent passport itself would have been issued in his favour instead of requiring an entry to be made in the Passport belonging to the mother of the writ petitioner. I am satisfied that the entry made in the passport of the mother vouches that the writ petitioner was an infant by the time the endorsement was made on 17-11-1987. This apart, the writ petitioner has also produced a pass certificate of All India Secondary School Examination –2002 issued in his favour by Central Board of Secondary Education wherein his date of birth has been correctly noted and recorded as 6-10-1987.

5. I am therefore satisfied that this is a case of technical error that crept in at the time when the Passport was issued to the writ petitioner, erroneously recording his date of birth as 6-10-1986 instead of 6-10-1987. I therefore, direct the respondent to take all such necessary steps and measures to bring about the correction in the entry relating to the date of birth of the writ petitioner in his Passport bearing No.Z 1312143 as quickly as possible, at any rate, within a period of 15 days from the date of production of copy of this order before him by the writ petitioner.

5. With this, the writ petition stands disposed of. No order as to costs.

NOOTY RAMAMMOHANA RAO,J

10-05-2007

Note: C.C. Tomorrow

B/o.

Stp